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SUBJECT: SIERRA LEONE: 2007 INVESTMENT CLIMATE REPORT

Openness to Foreign Investment

11. The Government of Sierra Leone (GoSL) Ministry of Trade and Industry is actively working to increase trade and investment.

12. Investment Laws: A new Investment Code went into effect in 2005. It is designed to put Sierra Leone at par with western countries concerning the protection of companies. The Ministries of Trade and Industry, the Finance Ministry, and others are working on an annex to the code, which will detail the specific investment incentives to be offered in specific sectors.

13. The GoSL is working to develop the industrial base in order to help develop the country and create jobs. Sierra Leone is starting from a low level. Officials point especially to the need for foreign investment and value added activity in a number of sectors, but they highlight agricultural production and processing and fisheries production and processing.

14. The sanctity of contracts is upheld in law. In practice, the judicial system is slow and inefficient and is widely reported to be corrupt. The UK Government is undertaking a multi-million dollar judicial reform program.

15. There are no laws or regulations restricting remittances or repatriation of profits. Outflows are largely for physical capital expenditures and to make payments abroad for things like school fees. Outflows of wealth from Sierra Leone are dominated by the export of diamonds and other minerals, not financial flows.

16. There is no industrial policy that discriminates against foreigners nor are there sectors where there are limits or prohibitions on foreign investment or the denial of national treatment. Sierra Leonean authorities do not screen investments.

17. Late in 2005, the parliament passed an Anti-Money Laundering Law aimed at regularizing and controlling capital inflows so as to help protect against efforts to destabilize the country or to meddle in politics or political party affairs. In putting the law into effect, the GoSL underscored its desire for "the right kinds of investment." The law allows the importation of \$10,000 in cash. Amounts beyond that must be transferred through the banking system to insure transparency and to make sure that there is a paper trail. Several foreigners have been stopped at the Freetown airport with large amounts of cash, in one case \$500,000. The police temporarily confiscated the amount beyond \$10,000 and asked the carrier to arrange for its placement in normal banking channels.

18. Acquiring Land: There are two types of land tenure inherited from colonial times. Colonial Land is a freehold system existing in Freetown and the Western Area. Customary Land is a leasehold

system, which prevails throughout the rest of the country. There is no land titling system to validate property rights. Because it can be difficult to verify ownership, land is often sold or leased illegally, thus restricting and complicating investment. Furthermore, foreigners cannot own land under either system but can lease land up to 99 years.

¶9. Sierra Leonean citizens can acquire private land (in Freetown and the Western Area only) in a fairly straightforward fashion. State lands can be obtained from the State Lands Committee and the Ministry of Lands via a bureaucratic process that typically takes 65-70 business days. Under the Customary Land system, an investor can lease land by entering into a "joint venture" for economic purposes with the local paramount chief who controls the land in his district. This system is designed to protect the livelihood of indigenous traditional users of the land - householders, subsistence farmers, herders, and small producers.

¶10. Mortgages exist but since there is only a small stock of modern housing and other buildings, the real estate market is minimally active and mortgages are not common. When they exist, mortgages can carry long terms, but are more commonly of short duration and high interest. Short-term bank loans for new construction are more common.

¶11. Privatization: In its privatization program of 24 publicly owned enterprises, the GoSL is looking for investors, especially foreign investors, who will bring significant capital, but also know-how on how to improve the productive and financial performance of the company to be privatized. Foreign investors are invited to participate in every stage of the privatization process. However, the GoSL wants to avoid asset stripping, especially in the banking sector, which has attracted the most international investor attention. The privatization of Rokel Bank, for example, was halted

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in early 2005 after the Government determined that potential investors were "not serious." The Government also came under considerable pressure from Sierra Leonean shareholders to not privatize. Rokel is reportedly now not open to foreign investors. The bank may end up being privatized through a buy-out (probably partial) by the national social security system, NASSIT, which has expanded rapidly.

¶12. Visas: US citizens must have a visa to enter Sierra Leone, obtainable from the Sierra Leonean embassy in Washington or at other Sierra Leonean embassies. Airport visas are available but cost \$100 and are not issued quickly. Foreign investors must have a self-employment/work permit from the Ministry of Labor, which takes six weeks to four months or longer to obtain and costs \$85. A foreigner also must have a residence permit that can be obtained in a few days, but often takes longer. There is an application fee of \$100 and the permit costs \$1,000 for entrepreneurs and \$1,660 for employees.

¶13. Registry and Licenses: Companies have to register but private investors generally do not consider the business registration process as a major impediment to investing. Registration takes 2-4 weeks and costs about \$200 plus legal fees that range from \$400-\$5,000, making registration among the most costly in the world, according to recent research. There is a shortage of reliable information on procedures and fees and there are bothersome redundancies. The high cost of business registration combined with lax enforcement results in a high rate of non-compliance and contributes to flourishing informal economic activity.

¶14. There are also three types of mandatory business licenses: general licenses for every business, special activity licenses for executing certain activities (hotel, supermarket, restaurant, factories, construction), and licenses for specific sectors like tourism, telecommunications, and mining.

¶15. Mining and Fisheries: The mining sector is open to foreign investors. The cost of mining licenses depends on the type of activity and citizenship. Non-exclusive prospecting licenses are \$10-50 per square mile. Exclusive prospecting license \$50-200 per

square mile, depending on the mineral. Exploration licenses are \$100-400 per square mile for three years. Mine leases are for a maximum of 25 years (renewable for 15 added years) and cost \$500-5,000 per square mile, depending on the mineral.

¶16. For mining investment over \$100 million the conditions, fees, and taxes can be negotiated with the Minister of Mineral Resources on behalf of the Government.

¶17. Some other important fees in the mining sector are as follows:
Alluvial Diamond Exporters license: \$40,000/year (\$25,000 half year).
Alluvial Diamond Exporter Agent's certificate: \$5,000/year (\$3,000 half year).
Alluvial Diamond Dealer's license: Non-Citizen \$5,000/year (\$3,000 half year).
Gold Exporter's license: \$3,000 per year.
Gold Exporter Agent's certificate: \$ 1,000/year.
Gold Dealers license: Non-Citizens \$1000/year.
Gold Mining Company Manager Certificate: Non-Citizen \$167/year.

¶18. In fisheries, vessels must be registered and a fishing license obtained. Obtaining an industrial fishing license requires an offshore account in Sierra Leone and the operator must employ 45% Sierra Leoneans as crew members. The licensing process is speedy after the vessel is inspected.

¶19. The following license fees pertain. For vessels over 250 tons, a shrimp license costs \$60,000 for a year plus royalties of \$18,000 per vessel. Fish trawlers over 250 tons pay \$40,000 per year with royalties of \$15,000. Tuna purse seiners pay \$18,000 per year; tuna long liners pay \$12,000 per year; and purse seiners for small pelagics pay \$15,000 per year. Fish processing ships pay \$20,000 per year.

¶20. Impact of policies and economic trends on FDI: With the end of the war in January 2002, massive infusions of outside assistance helped Sierra Leone to recover and rebuild. GDP growth rates immediately rose to six percent and higher as agriculture recovered, legal diamond production and exports grew, manufacturing showed modest gains, and construction expanded.

¶21. FDI inflows reached \$32.5 million in 1990 before the outbreak of the violent civil strife in 1991, and then declined rapidly for a decade. FDI spiked again in 2000 at \$39 million. It declined again in subsequent years, coming back up in recent years but to only \$5

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million in 2004. The latter figure does not include, however, more recent large investments in rutile and bauxite mining or the \$6 million in new milling equipment the U.S.-owned flour mill installed in the past year.

¶22. Important impediments to foreign investment remain. There is a shortage of skilled workers and professionals. Many judges, lawyers, doctors, civil servants, engineers, and other professionals left the country and those who remain often lack the means to carry on their duties properly. Corruption is a problem and the independent Anti-Corruption Commission created in 2000 has yet to have a large impact on the higher levels.

¶23. Sierra Leone's trade policies are relatively open and non-tariff barriers have been eliminated. Tariff rates are converging with those of its neighboring ECOWAS (Economic Community of West African States) and WAEMU (West African Economic and Monetary Union - CFA Franc zone) countries. Import and export licenses have been abolished for all but a small number of products. However, importing and exporting problems have less to do with policy than with practice. Customs clearance is slow, cumbersome, costly, and opaque. The average 14 days for import clearance is among the world's worst. All goods are subject to lengthy and complicated customs procedures, although the GoSL is reportedly considering reducing its customs registration and documentation requirements. Tariff schedules are not always transparent which allows arbitrary assessments that can be challenged only with difficulty as appeals processes are ill defined and lengthy. Sierra Leone continues to

use the Brussels Declaration of Value, as it has not yet adopted the WTO Agreement on Customs Valuation. Sierra Leone uses minimum or reference values for rice, flour, sugar, cement, used clothing, and clothing accessories and not having adopted the WTO Agreement leaves customs agents with excessive power and increases the costs of imports.

¶24. Improved economic conditions since the civil war ended in January 2002 along with greater political stability and a more forward-looking government policy have led to some new foreign investment. The telecommunications sector has seen rapid expansion in mobile telephones. In banking, Malaysian investors have opened the International Commercial Bank and Nigerians investors have opened the First International Nigerian Bank and Guaranteed Trust. Standard Bank closed during the war but has reopened. The Ecobank Group has also opened a branch in Freetown.

¶25. Mining has expanded greatly with increased legal diamond exports conforming to the Kimberley Process. The reinvestment in rutile and bauxite mining in the southwestern part of the country will put Sierra Leone again among the world's top producers. OPIC provided a \$25 million investment guarantee for Sierra Rutile and the European Union provided \$12 million in start up capital. There are also large iron ore deposits, but it is not yet clear whether they can be economically exploited.

¶26. With the aid of the World Bank and key international donors, the GoSL developed its Poverty Reduction Strategic Paper (PRSP). It is putting its PRSP plan into effect and international donors -- the World Bank, UK, US, EU, and other donors -- are assisting.

¶27. On December 15, 2006, the IMF Executive Board found that Sierra Leone had achieved completion under the Heavily Indebted Poor (HIPC) initiative and will provide debt relief in line with the HIPC framework. The PRSP's three pillars are good governance, security and peace; pro-poor, sustainable economic growth, food security, and job creation; and human resource development. International donors are contributing several hundred million dollars to turn these programs into realities. This simultaneously will clarify and strengthen the investment climate.

Conversion and Transfer Policies -----

¶28. There are no restrictions on converting or transferring funds associated with an investment. Investors can withdraw and remit any amount from a commercial bank and have it transferred into any freely convertible currency and at legal market clearing rates. Sierra Leonean banks are well connected with the international banking network. There are no plans to change remittance policies.

¶29. Sierra Leone has a floating exchange rate. The Leone fluctuates, but overall has depreciated slowly over recent years, mainly due to demand for financing current consumption, especially of imported petroleum products, and for national reconstruction.

¶30. Estimated exports in 2005 (Economists Intelligence Unit - EIU)
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were \$200 million while imports were \$330 million. Diamond exports increases from an estimated \$126 million in 2003, to \$158 million in 2004, and \$230 million in 2005 (EIU). The current account balance was a negative \$105 million, or about eight percent of GDP.

¶31. There are no legal restrictions on obtaining foreign exchange. The Central Bank conducts frequent foreign exchange auctions, typically on a weekly basis, but limits a single bidder to \$100,000. The auctions are far from sufficient to meet the needs of importers. Additional foreign exchange is available through the banking system, but banks will provide cash only to customers who have deposited cash. Customers who have deposited transfers can obtain only transfers.

¶32. The new Investment Code guarantees foreign investors the right to repatriate earnings and the proceeds of sales of assets, and also

allows expatriate employees to repatriate earnings.

Expropriation and Compensation

¶33. There is no history of expropriations in Sierra Leone.

Dispute Settlement

¶34. Sierra Leone adopted the UK's legal system and common law system. The traditional and Islamic Law systems employed decide many personal property and inheritance issues outside the capital of Freetown. The legal system inherited from the UK protects property and contract rights in the modern sector and there have been few notable issues with property or contract rights affecting US investors. Investors have access to the judicial system, but the system is slow and is widely reported to be subject to financial and political influence. Arbitration clauses in contracts and foreign judgments are respected. Officials point to arbitration and judicial findings in Europe against the Government with which it complied.

¶35. The Law Reform Commission is considering a new Commercial Law, but its progress has been slow on this and other matters.

¶36. Sierra Leone is a party to the Convention on Settlement of Investment Disputes Between States and Nationals of Other States (The Washington Convention), which it ratified and put into force in October 1966.

¶37. An important U.S. investor has claimed repeatedly that its competitors are routinely allowed to undervalue its imports, thus paying less in duties and underselling the U.S. firm. The investor's complaint has gone unresolved for several years. Other investors complain that undervaluing goods bound for retail is necessary to reduce what many believe are exorbitant customs duties.

Performance Requirements and Incentives

¶38. The GoSL has established no performance requirements prescribing mandatory percentages of exports, domestic content, required domestic inputs, the transfer of technology or proprietary knowledge, or limiting access to foreign exchange.

¶39. The annex to the Investment Code law will define the investment incentives to be offered and in various sectors but has not yet been released. Key areas for incentives include agro-processing and value-added activity in fisheries. Both sectors represent important potential in Sierra Leone.

¶40. No performance requirements are in place to require maintenance or expansion of a foreign investment. There are likewise no requirements that nationals own shares that the share of foreign equity is reduced over time, or that technology is transferred under certain terms. There are no "offset" requirements.

Right to Private Ownership and Establishment

¶41. Foreign and domestic entities have the right to establish and own business enterprises and engage in all sorts of remunerative activities. Foreigners are free to acquire and dispose of interests in business enterprises.

Protection of Property Rights

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¶42. Mortgages exist but are not common as property rights are difficult to secure, given the complexities of the land tenure system. Officially there is complete and open access to the court system if an individual or enterprises thinks its interests to be

compromised, but judicial practice is widely reported to be open to political or financial influence.

¶43. The GoSL is taking steps to develop policy and laws that will bring it into compliance with TRIPS. So far, these measures do not include amendments to the copyright law, which is 40 years old. Per WTO agreements, Sierra Leone had until 2006 to fully implement TRIPS but extensions were recently granted to all Least Developed Countries until July 1, 2013.

¶44. Popular music and films are illegally copied and sold on a substantial scale. While some recorded American music and films are affected, this practice mostly affects local and regional music and Nigerian films.

Transparency of Regulatory System

¶45. Red tape and excessive delays are problematic. Sierra Leone in the bottom quintile of the World Bank "Doing Business" ranking, on par with most of the other countries in West Africa. The World Bank ranking cites licenses, hiring and firing workers, registering property, and enforcing contracts as problems.

¶46. The GoSL recognizes the need for greater regulatory clarity and efficiency. The Law Reform Commission is working in that direction, but once updated laws are promulgated, the Government often is slow to develop the administrative rules for their application.

¶47. One notable effort to improve clarity is the Government's establishment of a "one stop center" where investors can obtain all required permits and licenses. The Sierra Leone Export Development and Investment Corporation (SLEDIC) is to incorporate the one stop center and is in the process of reorganization to better serve its customers.

¶48. The Government does not use taxes or labor, environmental or other standards to inhibit foreign investment.

Efficient Capital Markets and Portfolio Investment

¶49. The commercial banking sector is sound. Citizens and foreigners have access to credit under the same market terms, although interest rates usually exceed 30%. Because of the Government's feeble tax revenue generation, the Central Bank holds frequent (generally weekly) bond auctions. The Government's bonds pay about 25 percent thus crowding out credit flows to production or factor markets.

¶50. As a rule, banks do not invest in equity projects. The land tenure system makes it difficult for a lender to identify the true owner of a property and makes most property useless as loan collateral. An inefficient judicial system and the lack of bankruptcy laws make it very difficult for a lender to recover collateral in the event of a default.

¶51. Credit is rarely a problem for foreign investors as they typically bring in capital from outside the country and have well-established banking relationships that enable them to obtain working and trading capital.

¶52. As of November 2005, the Bank of Sierra Leone (national bank) estimated the assets of the largest banks as follows:
Rokel Commercial Bank: \$52 million.
Sierra Leone Commercial Bank: \$67 million.
Standard Chartered Bank: \$53 million.
Total assets of the banking sector: \$173 million.

¶53. There is no evidence of cross-shareholding and stable shareholder arrangements in Sierra Leone.

Political Violence

¶54. There have been no incidents in recent years of politically motivated damage to projects or installations. During the widespread violence that occurred from 1991 to 2002, mining installations and a great deal of physical infrastructure was

destroyed. After the war ended in January 2002, a successful demobilization, disarmament, and reintegration (DDR) program followed and a large UN peacekeeping mission guaranteed security. The UN peacekeepers departed in December 2005 and security

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responsibilities are in the hands of the Sierra Leonean army and police, which the UK government has done much to train and equip. The UN retains a robust development mission in Sierra Leone. Although Sierra Leone is a "fragile state," the country is calm so insurance costs and risk premiums should not reflect the earlier realities of the 1990s.

¶55. There are no nascent insurrections or belligerent neighbors aiming to destabilize Sierra Leone. Political instability in Guinea and Liberia has not had much effect on Sierra Leone. In the run up to presidential and parliamentary elections scheduled for July 28, 2007, political parties are competing for voter attention. There is the potential for political rallies to snarl traffic and damage property. With extensive UK training and new equipment, the Sierra Leone Police have increased capacity to handle such events.

Corruption

¶56. International companies identify corruption as an obstacle to investment, ranking Sierra Leone near other West Africa countries for corruption. Bribes, kickbacks, extortion, and skimming on contracts and payments are common forms of corruption.

¶57. Sierra Leone signed the UN Convention Against Corruption in December 2003 and ratified it in September 2004. The GoSL established the independent Anti-Corruption Commission (ACC) in ¶2000. It is charged with investigating cases and educating the public to reduced corruption in its many forms. Per the Anti-Corruption Act, giving or accepting a bribe is a criminal offense that carries a penalty of two years imprisonment or \$340 (Le 1,000,000), or both.

¶58. The ACC has investigated and brought cases against several low- to mid-level public servants. To date, the only high-level official convicted on corruption charges had his case overturned on appeal. In general, the ACC has yet to be very successful in halting corruption. In late 2005, it came under parliamentary criticism after the Commissioner criticized certain members of the legislature and was subsequently dismissed. His replacement has yet to move aggressively against corruption. The judicial system, which must try the cases the ACC develops, is inefficient and itself widely believed to be corrupt.

¶59. The Anti-Corruption Act is not used disproportionately against foreigners.

¶60. Transparency International's 2005 "Corruption Perception Index" ranked Sierra Leone 124th of 159 countries (tied with Russia). Sierra Leone is thus on par with many other countries in Africa and Asia. In Sierra Leone, TI operates the National Accountability Group (NAG), an important local NGO. The Campaign for Good Governance is another local watchdog organization.

Bilateral Investment Agreements

¶61. Sierra Leone does not have a bilateral investment treaty or taxation treaty with the U.S.

OPIC and Other Investment Insurance Programs

¶62. OPIC offered a \$25 million investment guarantee to Sierra Rutile for the restart and expansion of its mineral sands mine in southwestern Sierra Leone. The company is also exploiting nearby substantial bauxite deposits. The European Union provided \$12 million in start up funding. Phase one will generate about 110,000 tons of rutile (titanium oxide), which is an important ingredient in paints, paper, and plastics. Before violent civil strife destroyed

the mine's equipment in the 1990s, Sierra Leone was the world's largest rutile producer.

¶63. Sierra Leone is a member of the Multilateral Investment Guarantee Agency (MIGA), part of the World Bank.

Labor

¶64. Sierra Leone suffers from a shortage of educated and skilled workers and professionals. Brain drain to Europe and North America has been a significant drag on the economy for some years.

¶65. Formal sector employment is largely governed by collective bargaining agreements between employers and unions. Such agreements cover various sectors: tourism, commerce, petroleum, manufacturing,

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media, entertainment, financial services, general services, and public utilities. The statutory minimum monthly salary is \$15, but under the collective agreements, the minimum throughout the formal sector is \$24. The minimum figure goes up with qualifications so that a machine operator in manufacturing must be paid a minimum of \$43, rising to \$55 for a senior operator.

¶66. The workweek is 40 hours with two consecutive days off mandatory. Work beyond 40 hours is paid at 50% overtime and required work on rest days is 100% overtime.

¶67. Companies can find an employee redundant for commercial or financial reasons after trying and failing to find alternative employment, in consultation with the union. The employer can discharge workers only on the basis of seniority, with more junior workers being dismissed first. Employers must give two months notice and pay redundancy compensation according to a steeply rising schedule. For example, the employer must pay a worker with 14 years seniority more than two years salary as compensation while the employer owes twenty-year employee more than three and a half years salary as compensation.

¶68. Workers can be dismissed for incompetence, inefficiency, violation of rules, or serious offenses in a reasonably straightforward manner. After two written warnings an employee can be dismissed without compensation. There is an appeals process via employer-union consultations and possible intervention by the Commissioner of Labor. The Industrial Court hears dismissal cases and other disputes and heard 170 cases between 2000-2003.

¶69. Contributions to the national pension plan, NASSIT, are mandatory. The employer pays 10 percent of the worker's salary and the worker contributes five percent.)

Foreign Trade Zones/Free Trade Zones

¶70. Sierra Leone does not operate a duty free zone, but plans are under way to establish an export-processing zone with duty free status for re-exports.

¶71. The GoSL and Chinese company Henan Guoji Group are working under a joint venture to develop an industrial and trade zone. The GoSL is providing the land and existing buildings (the old National Workshop facility long slated to be privatized) and preferential conditions, while the Chinese company is supplying capital, know-how, and some workers.

Foreign Direct Investment Statistics

¶72. According to 2005 UN figures (UNCTAD World Investment Report, 2005) Sierra Leone attracted \$5 million in direct foreign investment in 2004. That figure was up from \$2 million in 2002, but does not reflect the large new investment in Sierra Rutile.

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